

REMARKS

Claims 32-42 are pending in this application. No amendments have been made.

Claims 32-42 stand rejected over the combination of each of Raveendranath and Miller with Sawicka and Gibson '120 for alleged obviousness under 35 U.S.C. § 103.

Raveendranath and Miller are each individually combined with Sawicka, as in the prior Action, and further combined with Gibson '120. Gibson '120 is cited in an attempt to remedy the deficiency of the Raveendranath/Sawicka combination and the Miller/Sawicka combination with respect to disclosure of a wetting agent and a glidant. Applicants note that the Examiner apparently has recognized, by withdrawing the prior rejections, that neither of these combinations teach or suggest a formulation containing both a wetting agent and a glidants, as claimed by Applicants.

The entirety of Gibson '120 is directed to "certain benzothiophenes" and raloxifene in particular. Every example is directed to a raloxifene formulation. The only reference to active compounds other than raloxifene is to the more generic benzothiophenes, and even then it is limited to "certain benzothiophenes." There is no teaching or suggestion that the described formulations would be advantageous in administering an active agent other than raloxifene or the "certain benzothiophenes." Gibson '120 is limited on its face to formulations containing "certain benzothiophenes" and does not provide a teaching or suggestion that the formulation would be effective for administering the active indol compounds as claimed by Applicants.

One skilled in the art would not be motivated to first select, then combine the teachings of each of Raveendranath and Miller with respect to indol compounds with the teachings of Gibson '120 with respect to the use of a wetting agent and glidants in benzothiophene. Those of skill in the art would have no reason to look to Gibson '120 since Raveendranath and Miller, individually, provide guidance as to suitable pharmaceutical formulations for the indol compounds. Even if one were interested in altering these formulations, one of skill in the art would not look to Gibson '120 because it is limited to benzothiophenes rather than to the indols as claimed by Applicants. One skilled in the art would not have any reason to expect that the advantages of the wetting agent and glidants in the raloxifene formulations would be seen in indol formulations.

Only by using impermissible hindsight, parsing through Applicants' specification and claims would one skilled in the art find a teaching that active indol compounds benefit from formulations containing a wetting agent and a glidant, in addition to other elements. The Office is not permitted to use Applicants' disclosure as a blue print to piece together the prior art, but rather must find those teachings in the art itself.

Applicants respectfully request withdrawal of the rejection, since there is no motivation to combine the teachings of Gibson '120, concerning benzothiophene formulations containing a wetting agent and a glidants with the teachings of Raveendranatha or Miller concerning idol formulations lacking a wetting agent and glidants.

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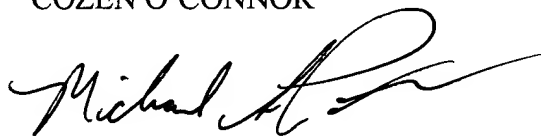
August 7, 2006 Response
to February 7, 2006 Office Action

The Commissioner is hereby authorized to charge any fee or underpayment thereof or credit any overpayment to deposit account no. 50-1275.

Early reconsideration and allowance of all pending claims is respectfully requested. The examiner is requested to contact the undersigned attorney if an interview, telephonic or personal, would facilitate allowance of the claims.

Respectfully submitted,

COZEN O'CONNOR

A handwritten signature in black ink, appearing to read "Michael A. Patané", with a long, sweeping horizontal stroke extending to the right.

Date: August 7, 2006

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